IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

**WEDNESDAY, THE TWENTY NINETH DAY OF NOVEMBER TWO THOUSAND AND SIX**

PRESENT

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION No.9534 of 1997**

**Between:**

**1.Lingareddygaru Asunthamma and 5 others.**

**..... PETITIONERS**

**AND**

**1.The District Collector, R.R.District,**
**at Lakadikapul, Hyderabad, and 2 others.**

**.....RESPONDENTS**

**The Hon'ble Sri Justice Nooty Ramamohana Rao**

**Writ Petition No.9534 of 1997**

**Order:**

This Writ Petition has been instituted calling in question the order passed on 2nd April, 1997, by the second respondent-Mandal Revenue Officer, Pudur in Ranga Reddy District, whereby the writ petitioners were issued a notice to vacate from the lands in their occupation situated

in Survey No.546 of Kankal Village, Pudur Mandal, Ranga Reddy District.

Heard the learned Counsel for the parties and perused the entire material available on record.

The notice dated 02-04-1997, issued by the second respondent-Mandal Revenue Officer, proceeds on the basis that on 6th January, 1997, the second respondent had already conferred the ownership rights of the land in question on the third respondent as he is a protected tenant under Section 38-E of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short 'the Act'). Thus, it is clear that the notice dated 02-04-1997 of the second respondent-Mandal Revenue officer has drawn its inspiration only from the orders passed by him earlier on
06-01-1997 conferring the rights under Section 38-E of the aforesaid Act on the third respondent. Therefore, the principal grievance, if any, of the writ petitioners should have been directed against the order passed by the second respondent-Mandal Revenue Officer on 6th January, 1997 rather than mounting any attack on the consequential notice dated 02-04-1997. Confronted with the situation, the writ petitioners have now filed two applications being WPMP Nos.30847 and 30848 of 2006. WPMP.No.30848 of 2006 is filed to amend the prayer in this Writ Petition and to permit the writ petitioners to attack the order passed by the second respondent-Mandal Revenue Officer on 06-01-1997

conferring the rights on the third respondent under Section 38-E of the Act. The second application being WPMP No.30847 of 2006 is a formal one seeking to dispense with the production of the certified copy of the said order dated 06-01-1997 of the second respondent-Mandal Revenue Officer.

I am afraid that the correctness or otherwise of the order passed by the second respondent-Mandal Revenue Officer on 06-01-1997 cannot be gone into in these proceedings, for, it is liable to be appealed against. Bypassing a statutory right of appeal, in this writ petition the correctness or otherwise of the order passed by the Mandal Revenue Officer on 06-01-1997 should not be put in issue, in view the fact that in a related proceeding between the parties, the first respondent-District Collector on 19-03-1984 had returned a finding that the third respondent is not in possession of the lands in question as on the relevant date, and therefore, he is not entitled to be conferred any right. These are all aspects, which have got to be considered by the appellate authority in an appropriately constituted appeal, and the third respondent also will have an opportunity to demonstrate as to how the order passed by the second respondent-Mandal Revenue Officer on 06-01-1997 can be sustained. Therefore, I consider that the above Writ Petition should not come in the way of the petitioners agitating in an appropriately constituted appeal, the validity of the proceedings dated 06-01-1997, passed by

the second respondent-Mandal Revenue Officer conferring the right under Section 38E of the Act on the third respondent, provided, such an appeal be preferred by the writ petitioners on or before 31-12-2006. The interim order passed by this Court *vide* W.P.M.P.No.11655 of 1997, dated 02-05-1997, will enure to the benefit of the writ petitioners till 31-01-2007, so that appropriate orders can be obtained by the writ petitioners from the appellate authority in the meantime.

The Writ Petition is, accordingly, disposed of. W.P.M.P.Nos.30847 and 30848 of 2006 are not entertained in view of the disposal of the Writ Petition itself. No costs.

**29th November, 2006**

**Note:**
**Furnish Certified Copy**
**within three days.**
**B/o**
**LUR**